

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2003-916

February 10, 2004

Appeal of Consumer Assistance
Division Decision #2003-16300
Regarding Standish Telephone/
Fairpoint New England

ORDER

WELCH, Chairman; DIAMOND and REISHUS, Commissioners

I. SUMMARY

In this Order we uphold the Consumer Assistance Division (CAD) decision of December 4, 2003 concerning the Standish Telephone Company (herein referred to as Fairpoint) assignment of a telephone number to Mr. John Lewis.

II. BACKGROUND

On November 3, 2003, John Lewis (owner of Maine's Real Estate Connection) complained to CAD that Fairpoint had disconnected a new vanity number he had recently ordered. After determining the availability of the number, Fairpoint began service at the number on October 30, 2003. On October 31, 2003, Fairpoint left a message for Mr. Lewis explaining that it had disconnected the service because it had promised the number to another customer who had contacted Fairpoint before Mr. Lewis.

After investigating the complaint, CAD found that the other customer (Mr. Burke, who owns a competing realty business) had contacted Fairpoint on October 23, 2003 and requested the number. On October 29, 2003, Mr. Burke called and completed his order with Fairpoint. Fairpoint processed the order on October 31, 2003. Mr. Lewis called on October 30, 2003, and Fairpoint accepted his order and processed it on October 30. Due to an error, a hold was not put on the number when Mr. Burke originally called, which allowed it to be assigned again, this time to Mr. Lewis on October 30. CAD found that Fairpoint acted properly in retrieving the number, although it failed to provide Mr. Lewis with 30 days notice prior to disconnecting the service as required on its Terms and Conditions.

On December 16, 2003, Mr. Lewis appealed the decision. He describes his prior business relationship with Mr. Burke and complains that Fairpoint's retrieval of the number was unfair.

III. DECISION

The circumstances surrounding this phone number assignment are unfortunate, but we find that CAD's decision is correct. Although the record is not extensive, the contemporaneous notes created by the Fairpoint's service representative confirm that

Mr. Burke did initially request the number on October 23, six days prior to Mr. Lewis. Fairpoint admits that it erred in not properly putting a hold on the number to avoid it being assigned to another customer. No matter how it responded to the error, Fairpoint inevitably would disappoint one of its customers when it corrected its error. By making the change promptly, the least harm was done to either customer. There is no evidence that Fairpoint favored one customer over the other. Instead it put the customers back into the positions they each would have been in if it had correctly processed the order. Therefore we uphold CAD's decision.

Dated at Augusta, Maine, this 10th day of February, 2004.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Diamond
 Reishus

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.